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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/691,064	10/22/2003	Donald E. Weder	8404.012	6112

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EXAMINER

GELLNER, JEFFREY L

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 06/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/691,064

Applicant(s)

WEDER, DONALD E.

Examiner

Jeffrey L. Gellner

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 22 Oct. 2003.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Acknowledgement is made of Applicant's IDS received 22 November 2003.

Claim Objections

Claims 1 and 11 are objected to because of the following informality:

The "the arcuate portion" should be --the single arcuate portion--^{to}~~is~~ be consistent with previous language in the claim.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 4 and 13 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 4 and 13, line 1, the limitation "gusset" is indefinite because it adds no further limitation (concerning gusset) which is disclosed in claims 1 and 11, lines 15 and 17, respectively.

Claim Rejections - 35 USC §103

The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-19 are rejected under 35 U.S.C. §103(a) as being unpatentable over Weder et al. (EP 0791543 A2; 5th document listed under foreign patent's section of Applicant's 1449).

As to Claim 1, Weder discloses a sleeve (Fig. 55) originally in the flattened condition and openable therefrom comprising upper and lower ends, first and second sides, first and second panels (col. 9 lines 5-11), the sleeve with a single portion at the lower end, the first side having a first angle which faces inwardly and is greater than 90 degrees and less than 180 degrees, a second side having a second angle which faces inwardly and is greater than 90 degrees and less than 180 degrees, the first and second angles and the single portion cooperating to define a portion of the sleeve; the sleeve generally frustoconical (Fig. 55) when in an opened condition and absent a gusset (Fig. 55) in the lower end when in the flattened condition. Not disclosed is the single portion being arcuate. The same Weder et al., however, discloses a single arcuate portion in the lower end (for example, Fig. 36). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the sleeve of Weder et al. (Fig. 55) by making the single portion arcuate as disclosed by Weder et al. (Fig. 36) so as to meet consumer demand (for example, see col. 19 lines 44-50).

As to Claims 2 and 3, Weder et al. as modified by Weder et al. further disclose the first and second angles from 135 to 155 degrees (see Fig. 55).

As to Claim 4, Weder et al. as modified by Weder et al. further disclose a gusset (for example, Fig. 49).

As to Claims 5 and 6, Weder et al. as modified by Weder et al. further disclose a detachable upper portion and a detaching element that is perforations (Fig. 55).

As to Claim 7, Weder et al. as modified by Weder et al. further disclose the upper portion sized to substantially surround and enclose a floral grouping (Fig. 55).

As to Claim 8, Weder et al. as modified by Weder et al. further disclose a support assembly (for example, 62 of Figs. 1).

As to Claim 9, Weder et al. as modified by Weder et al. further disclose a skirt portion (Fig. 55).

As to Claim 10, Weder et al. as modified by Weder et al. further disclose a non-linear edge of the upper end (Fig. 55).

As to Claim 11, Weder discloses a sleeve (Fig. 55) originally in the flattened condition and openable therefrom comprising upper and lower ends, first and second sides, first and second panels (col. 9 lines 5-11), the sleeve with a single portion at the lower end, the first side having a first and second angles which faces inwardly and are greater than 110 degrees and less than 175 degrees, a second side having a third and fourth angles which faces inwardly and is greater than 110 degrees and less than 175 degrees, the first and second angles and the single portion cooperating to define a portion of the sleeve; the sleeve generally frustoconical (Fig. 55) when in an opened condition and absent a gusset (Fig. 55) in the lower end when in the flattened condition. Not disclosed is the single portion being arcuate. The same Weder et al., however, discloses a single arcuate portion in the lower end (for example, Fig. 36). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the sleeve of

Weder et al. (Fig. 55) by making the single portion arcuate as disclosed by Weder et al. (Fig. 36) so as to meet consumer demand (for example, see col. 19 lines 44-50).

As to Claim 12, Weder et al. as modified by Weder et al. further disclose the first-fourth angles from 125 to 150 degrees (see Fig. 55).

As to Claim 13, Weder et al. as modified by Weder et al. further disclose a gusset (for example, Fig. 49).

As to Claims 14 and 15, Weder et al. as modified by Weder et al. further disclose a detachable upper portion and a detaching element that is perforations (Fig. 55).

As to Claim 16, Weder et al. as modified by Weder et al. further disclose the upper portion sized to substantially surround and enclose a floral grouping (Fig. 55).

As to Claim 17, Weder et al. as modified by Weder et al. further disclose a support assembly (for example, 62 of Figs. 1).

As to Claim 18, Weder et al. as modified by Weder et al. further disclose a skirt portion (Fig. 55).

As to Claim 19, Weder et al. as modified by Weder et al. further disclose a non-linear edge of the upper end (Fig. 55).

Conclusion

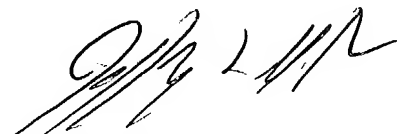
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Doyen disclose in the prior art a sleeve with four angles in the lower portion. Weder ('026 A1) is the instant application's pre-grant publication.

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Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Jeffrey L. Gellner whose phone number is 703.305.0053. The Examiner can normally be reached Monday through Thursday from 8:30 am to 4:00 pm. The Examiner can also be reached on alternate Fridays.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Peter Poon, can be reached at 703.308.2574. The official fax telephone number for the Technology Center where this application or proceeding is assigned is 703.872.9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.308.1113.



Jeffrey L. Gellner